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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/698,920	10/27/2000	Daryl S Meredith	0275A0168DVB	8371

7590 04/26/2004

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EXAMINER

PETERSON, KENNETH E

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 04/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/698,920

Applicant(s)

MEREDITH ET AL.

Examiner

Kenneth E Peterson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 39-44 and 47-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 39-44 and 47-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

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1. Claim 47 is objected to because "shat" is misspelled on line 7.

Appropriate correction is required.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 39-44 and 47-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brault et al.'042 in view of Cotton et al.'022 and Brundage et al.'233 or Emmons '607.

Brault shows a mitre saw with most of the recited limitations including a fixed guard, a movable guard and an arbor shaft cover as best seen in figure 1.

It appears that Brault's arbor shaft cover may be pivoted out the way to expose the arbor shaft, but this is not entirely clear. However, Cotton shows that it is well known to employ an arbor shaft cover (6). It would have been obvious to one of ordinary skill in the art to have modified Brault, if necessary, by using the arbor shaft cover taught by Cotton, in order to protect the operator from the spinning shaft while permitting easy access to the shaft.

Brault is silent on what controls the motion of the movable guard. However, it is well known for the movable guard of a miter saw to be powered by a torsional spring as taught by Brundage (149, figure 12) or Emmons (46). Brundage's and Emmon's torsion

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springs are positioned in a pocket defined by the fixed and movable guards. It would have been obvious to one of ordinary skill in the art to have further modified Brault by providing a pocketed torsional spring, as taught by Brundage or Emmons, in order to automatically bias the movable guard into the guarding position.

Brault's movable guard is on the inside of the fixed guard, as opposed to the outside. Whether the movable guard is on the inside or outside of the fixed guard is a simple reversal of parts obvious to one of ordinary skill. Furthermore, Examiner takes Official Notice that it is well known to have the movable guard on the outside. Examples of such can be seen in Sasaki et al.'516 and Brickner et al.'902, and additional examples can be provided if needed. It would have been obvious to one of ordinary skill in the art to have had Brault's movable guard be on the outside of the fixed guard, since this is a simple reversal of parts that would not change the operation of the device, and since it is old and well known, and since this is deemed to be an art recognized equivalent known for the same purpose, as per MPEP 2144.06.

In regards to claims 47-49, it is noted that Brault's miter saw is not a compound miter saw having a sliding drive support. However, Examiner takes Official Notice that both miter saws and compound miter saws generally use the same type of guards. Some examples of compound miter saws are the patents to Sato et al.'142 and Sasaki et al.'516, and additional examples can be provided if needed. It would have been obvious to one of ordinary skill in the art to have transformed Brault's miter saw into compound miter saw, or to have modified an existing compound miter saw to have Brault's modified guard, since miter saws and compound miter saws have

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interchangeable guard technology. The motivation for making such modifications is to be able to cut wider workpieces, a capability inherent in compound miter saws.

4. Applicant's affidavit has successfully removed the Stumpf '148 reference.

Applicant's terminal disclaimer was approved.

5. Applicant's affidavit necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ken Peterson whose telephone number is 703-308-2186. The examiner can normally be reached on Monday thru Thursday between 7am and 4pm.

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In lieu of mailing, it is encouraged that all formal responses be faxed to 703-872-9306. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703-308-1082. Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 703-308-1148.

kp

April 20, 2004



KENNETH E. PETERSON
PRIMARY EXAMINER